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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sandra A. Staley

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EXAMINER

SINGH, DALZID E

ART UNIT

PAPER NUMBER

2633

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,947

Applicant(s)

STALEY, SANDRA A.

Examiner

Dalzid Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 9 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pasawicz (US Patent No. 6,329,943) in view of Sottile (US Patent No. 5,203,622).

Regarding claim 2, Pasawicz discloses illuminated remote control system, as shown in Figs. 1 and 2, comprising:

a housing having of a top portion (shown in Fig. 1) and a bottom portion (shown in Fig. 2) with a periphery there between having at least one aperture there through, the top portion also having an upper face with a plurality of holes (for example, buttons (22) shown on top surface pass through plurality of holes), the bottom portion having a bottom face with a window and a latchable covering (for example, on the left hand side of figure 2, there is shown a latchable covering with arrow shaped lines to hold power supply, such as batteries);

a light bulb for emitting visible light with a central axis of dissemination, the infrared light emitting diode and the light bulb being fixed positioned at opposite ends of the housing for projecting light in opposite directions with a common axis (since illuminating mean radiates visible light, there must be a light bulb to radiate that light and illuminate, for example, a dark room; moreover, the light bulb can be rotated to a

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fixed position at the opposite of the infrared diode, see col. 4, lines 34-37; for example, as shown in Fig. 4, it would have been obvious that the hinge allows the light to rotate and yet provide sufficient friction so that a particular position can be maintained at a fixed position);

a common power source being electrically coupled to the infrared light emitting diode and light bulb (see col. 4, lines 22-24; it would have been obvious to provide a common power source to the infrared light emitting diode and the light bulb in order to reduce weight of the remote controller); and

a plurality of function buttons (22), shown in Fig. 1, passing through holes in the housing and with an on/off button (light control means which control light illumination) passing through a hole in the housing to activate and inactivate the light bulb (see Fig. 5 and col. 4, lines 18-23.

Although Pasawicz teaches remote control device, Pasawicz does not specifically disclose that the remote control system has an infrared light emitting diode, which transmit infrared signal. However, it is extremely well known that conventional remote control controls appliances such as TV, audio or video devices through either IR or RF. Sottile is cited to show such well known concept (see col. 1, lines 30-40 and col. 2, lines 28-31). Therefore, if it is not inherent, it would have been obvious to an artisan at the time of the invention to use IR communication as taught by Sottile in the remote control of Pasawicz. One of ordinary skill in the art would have been motivated to do this since IR is less susceptible to electromagnetic interference (EMI).

Allowable Subject Matter

3. Claims 1 and 9 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter:

The instant application is directed to a nonobvious improvement over the invention described in patent number 6,329,943 to Pasawicz or patent number 5,203,622 to Sottile. The improvement comprises:

a housing having of a top portion and a bottom portion with each portion having a first end, a second end, a pair of generally parallel side faces between the first end and second end and a first transverse edge adjacent the first end and a second transverse edge adjacent the second end, the top portion also having an upper face with a plurality of holes, the top portion further having a first aperture in the first end and a second aperture in the second end opening into the transverse edges, the bottom portion having a bottom face with a window and a latchable covering, the bottom portion also having a first aperture in the first end and a second aperture in the second end opening into the transverse edges, the top and bottom portion being coupled together with the first and second transverse edges making contact and the two portions forming a single first circular aperture in the combined first ends and a single second circular aperture in the combined second ends; and

a pair of clear plastic covers each having a hemispherical shape with a convex apex and an open concave bottom with the open bottom of the first cover being coupled to the aperture in the combined first ends and the open bottom of the second cover

being coupled to the aperture of the second ends such that the apexes point away from the housing, the coverings forming protective layers around the diode and bulb keeping debris out of the housing and preventing hot component from harming a user. This patentable distinction is included in independent claim 1.

The instant application is directed to a nonobvious improvement over the invention described in patent number 6,329,943 to Pasawicz or patent number 5,203,622 to Sottile. The improvement comprises:

a housing having of a top portion and a bottom portion with each portion having a first end, a second end, a pair of generally parallel side faces and a first transverse edge adjacent the first end, the top portion also having an upper face with a plurality of holes, the top portion further having a first aperture in the first end opening into the first transverse edge, the bottom portion having a bottom face with a window and a latchable covering, the bottom portion also having a first aperture in the first end opening into the second transverse edge, the top and bottom portion being coupled together with the first and second transverse edges making contact and the two portions forming a single circular aperture in the combined first ends; and,

a clear plastic cover having a planar shape being coupled to the aperture in the combined first ends and being planar with the first end, the covering forming a protective layer around the diode and bulb keeping debris out of the housing and preventing hot components from harming a user. This patentable distinction is included in independent claim 9.

Response to Arguments

5. Applicant's arguments filed 14 July 2004 have been fully considered but they are not persuasive.

Applicant argues that the references (Pasawicz and Sottile) do not teach a common power source being electrically coupled to the infrared light emitting diode and the light bulb. However, it is well known that infrared light emitting diode and a light bulb requires a power source to operate. Since both the infrared light emitting diode and the light bulb are incorporated into a single device, such as a remote controller as taught by Pasawicz, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to provide a single or common power source to operate both the infrared light emitting diode and the light bulb. One of ordinary skill in the art would have been motivated to do such in order to reduce weight and size of the remote control device.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalzid Singh whose telephone number is (571) 272-3029. The examiner can normally be reached on Mon-Fri 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272--3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DS
October 02, 2004



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